IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

WEDNESDAY, THE 21ST MARCH 2007 / 30TH PHALGUNA 1928

WP(C).No. 24728 of 2005(R)

PETITIONER:

KARUNAKARA, S/O. GOVINDAN,
NAMBAZHATHU MADAM, THIRUMULLAVARAM,
KAIKULANGARA VADAKKU, KOLLAM WEST VILLAGE.

BY ADV. SRI.C.RAJENDRAN

RESPONDENTS:

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1. STATE OF KERALA,
REPRESENTED BY SECRETARY, EXCISE DEPARTMENT,
THIRUVANANTHAPURAM.

2. THE EXCISE COMMISSIONER,
THIRUVANANTHAPURAM.

3. THE ASSISTANT EXCISE COMMISSIONER,
KOLLAM.

4. THE EXCISE CIRCLE INSPECTOR,
CHATHANNOOR.

5. THE DISTRICT COLLECTOR, KOLLAM.

6. PRABHAKARAN,
CHEKKALATHU THARAYI, KOYIVILA,
THEVALAKKARA VILLAGE.

BY ADV. SRI.B.KRISHNA MANI
SRI.RAHUL VENUGOPAL
SMT.S.SIBHA
GOVERNMENT PLEADER SMT. SMITHA

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21/03/2007, THE COURT ON 21/03/2007 DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True phtocopy of the license bearing No.24/04-05 from the 3rd respondent.

Ext.P2: True photocopy of the order bearing No.XA 7-8153/05 dated 28.3.2005 issued by the second respondent.

Ext.P3: True photocopy of the letter dated 4.4.2005 submitted by the petitioner to the second respondent.

Ext.P4:: True photocopy of the application dated 30.3.2005 submitted by the petitioner.

Ext.P5: True photocopy of the certificate issued by the Excise inspector, Chathannoor Range.

Ext.P6: True photocopy of the cheque no.039455 dated 29.3.2005 for Rs.30579/-.

Ext.P7: True photocopy of the cheque no.056068 dated 30.3.2005.

Ext.P8: True photocopy of the lease deed dated 29.3.2005.

Ext.P9: True photocopy of the certificate dated 29.3.2005 from the Sales Tax Officer, III Circle, Kollam.

Ext.P10: True photocopy of the certificate dated 28.3.2005 from the Kerala Toddy Workers Welfare Fund Board.

Ext.P11: True photocopy of the application dated 18.4.2005 submitted by the petitioner to the 3rd respondent.

Ext.P12: True photocopy of the order bearing no.XA7-8153/05 dated 23.4.2005.

Ext.P13: True photocopy of the order dated 2.6.05 passed by this Hon'ble Court by G.O(P)No.13158/05.

Ext.P14: True photocopy of the certificate dated 7.6.2005 issued by the Circle Inspector of Excise Range, Kollam.

Ext.P15: True photocopy of the judgment dated 27.6.2005 in W.P.(C)No.13158/05.

Ext.P16: True photocopy of the reply submitted by the petitioner before the 2nd respondent.

Ext.P17: True photocopy of the order dated 9.8.2005.

Ext.P18: Photocopy of the order G.O.(MS)No.30/06 TD dated 9.3.2006.

RESPONDENT'S EXHIBITS:

Ext.R1(a): True copy of the mahazar.

Ext.R1(b): True copy of the statement of accused 1.

Ext.R1(c): True copy of the statement of accused 2.

Ext.R1(d): True copy of the statement of accused 3.

Ext.R1(e): True copy of the respective pages of account register.

Ext.R1(f): True copy of donation receipt issued by Temple authorities.

// True copy //

P.A. to Judge

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C.N.RAMACHANDRAN NAIR, J.

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W.P.(C)NO.24728 OF 2005

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Dated this the 21st day of March 2007

JUDGMENT

Heard counsel appearing for the petitioner, the Government Pleader and I have also gone through the impugned order of the Commissioner.

2. Petitioner is challenging Ext.P17 order whereunder the Excise Commissioner has cancelled the toddy shop license issued to the petitioner during 2004-2005. Eventhough petitioner contended that license is cancelled based on statements given by the prime accused in abkari offence, it is seen from the order that along with the accused who was seized with 420 litres of spirit, petitioner's own two employees namely, the Accountant and the Salesman in the toddy shop gave statement that the petitioner acted as the binami of the said accused in the sale of spirit by mixing it with toddy in petitioner's toddy shop. Since statement given by the accused who was caught with substantial quantity of spirit was corroborated with by petitioner's own

employees, it cannot be said that the cancellation of petitioner's license is without any material evidence.

In the circumstances, this writ petition fails and is dismissed.

C.N.RAMACHANDRAN NAIR, JUDGE

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